

Compliance

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CON Evaluation Section

Overview

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Part 222 of the Public Health Code

333.22247 Monitoring compliance with certificates of need; investigating allegations of noncompliance; violation; sanctions; refund of charges.

Sec. 22247. (1) The department *shall* monitor compliance with all certificates of need issued under this part and shall investigate allegations of noncompliance with a certificate of need or this part.

Section 22247 continued...

(2) If the department determines that the recipient of a certificate of need under this part is not in compliance with the terms of the certificate of need or that a person is in violation of this part or the rules promulgated under this part, the department shall do 1 or more of the following:

- (a) Revoke or suspend the certificate of need.
- (b) Impose a civil fine of not more than the amount of the billings for the services provided in violation of this part.
- (c)see next slide
- (d)see next slide
- (e) Take any other enforcement action authorized by this code.
- (f) Publicize or report the violation or enforcement action, or both, to any person.
- (g) Take any other action as determined appropriate by the department.

Section 22247 continued...

(2) If the department determines that the recipient of a certificate of need under this part is not in compliance...the department shall do 1 or more of the following:

- (c) Take any action authorized under this article for a violation of this article or a rule promulgated under this article, including, but not limited to, issuance of a compliance order under **section 20162(5)**, whether or not the person is licensed under this article.

20162(5) The department, in order to protect the people of this state, shall provide a procedure for the orderly closing of a facility if it is unable to maintain its license under this section.

- (d) Request enforcement action under **section 22253**.

333.22253 Injunction or other process to restrain or prevent violation.

Sec. 22253. Notwithstanding the existence and pursuit of any other remedy, the department may request the attorney general or prosecuting attorney of the jurisdiction where a capital expenditure is proposed to be or was made to bring an action in the name of the people of this state for an injunction or other process against a person to restrain or prevent a violation of this part or the rules promulgated under this part.

Section 22247 continued...

(3) A person shall not charge to, or collect from, another person or otherwise recover costs for services provided or for equipment or facilities that are acquired in violation of this part. If a person has violated this subsection, in addition to the sanctions provided under subsection (2), the person shall, upon request of the person from whom the charges were collected, refund those charges, either directly or through a credit on a subsequent bill.

CON Administrative Rules

R 325.9419 Monitoring compliance with approved certificates of need pursuant to section 22247 of the code.

Rule 419. (1) Upon a determination by the department an [sic] applicant is not in compliance with the terms, conditions, or stipulations of an approved certificate of need, the department shall notify the applicant. The department shall also specify the period of time during which the noncompliance occurred. The applicant shall notify all payers of services provided by the applicant that the approved services are not being provided in compliance with the terms, conditions, or stipulations of an approved certificate of need.

(2) In determining the appropriate action to take in accordance with section 22247(2) of the code, the department shall consider the extent and duration of the noncompliance.

(3) The department shall make available, to the public, on request, a list of all certificates of need determined not to be in compliance with the terms, conditions, or stipulations approved in a certificate of need.

Part 201 of the Public Health Code

333.20143 Compliance as condition to issuance of license, certificate, or certificate of need.

Sec. 20143. (1) A license or certificate under this part shall not be issued unless the applicant is in compliance with part 222.

(2) A licensee who is issued a certificate of need under part 222 shall comply with part 222 and all of the terms, conditions, and stipulations of the certificate of need.

Part 201 continued...

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency with a capital expenditure of \$1,000,000.00 or more, a person shall obtain a construction permit from the department. The department shall not issue the permit under this subsection unless the applicant holds a valid certificate of need if a certificate of need is required for the project pursuant to part 222.

Sec. 20164. (2) A license, certification, or certificate of need is not transferable and shall state the persons, buildings, and properties to which it applies. Applications for licensure or certification because of transfer of ownership or essential ownership interest shall not be acted upon until satisfactory evidence is provided of compliance with part 222.

Part 201 continued...

Sec. 20165. (1) Except as otherwise provided in this section, after notice of intent to an applicant or licensee to deny, limit, suspend, or revoke the applicant's or licensee's license or certification and an opportunity for a hearing, the department may deny, limit, suspend, or revoke the license or certification or impose an administrative fine on a licensee if 1 or more of the following exist:...

(h) Failure to comply with part 222 or a term, condition, or stipulation of a certificate of need issued under part 222, or both.

Sec. 20166. (5) The department shall not deny, limit, suspend, or revoke a license on the basis of an applicant's or licensee's failure to show a need for a health facility or agency unless the health facility or agency has not obtained a certificate of need required by part 222.

Questions & Answers

Thanks!